

1 (Excerpt from State v. Stough hearing held October 8,
2 2019, before Hon. James L. Conlogue)

3 THE COURT: And Mr. Stough, if you will come
4 on back up?

5 We're back in State of Arizona vs. Brian
6 Stough. Mr. Stough is present, counsel are present.

7 Counsel, your thoughts?

8 MR. GUTIERREZ: Yes, your Honor.

9 Speaking with Mr. Stough, with all due respect to the
10 Court, Mr. Stough believes that it's in his interests that
11 in terms of impropriety based on the players involved and
12 he feels that to give him a fair shot at trial, again,
13 it's going to come down to his word versus Mr. Bays'
14 words. He wants an open-minded judge related to the
15 entire proceedings.

16 THE COURT: Okay. Now, Mr. Bays has
17 practiced probably before all the judges here.

18 And Mr. Lindstrom, do you have any thoughts
19 on this?

20 MR. LINDSTROM: Your Honor, I actually
21 disagree with the termination of you presiding, there
22 isn't any impropriety. The prosecutor in the case is
23 actually someone who doesn't know Mr. Bays at all, he's
24 a brand new prosecutor as of a few weeks ago, and the
25 State's position is that we would like you to stay on,

1 and I don't believe that you being presiding over this
2 case presents any kind of impropriety. Thank you.

3 THE COURT: One of the things that I think
4 is very important, particularly in a criminal case, is
5 that the parties believe that it's fair, and Mr. Lindstrom
6 makes a good point is that I won't be the one making
7 credibility assessments, it's going to be for the jury,
8 but if Mr. Stough is convicted and believes that the
9 process was unfair because I was involved in it, that's
10 not acceptable to me. And I apologize, I did actually
11 think it was going to resolve by agreement and so
12 I hadn't looked at the victim information.

13 But the delay caused by this is attributable
14 to Mr. Stough, but at Mr. Stough's request, I will have
15 this assigned to another division, and I think that if the
16 same issue comes up with another judge here, probably
17 would need to take it up.

18 I can put in here, however, it was because
19 of the identity of the victim is the reason that the
20 request is being made and so that another judge may or
21 may not want to be involved.

22 MR. GUTIERREZ: Does the Court have pro-tems
23 in this matter?

24 THE COURT: Sure, we have a full-time
25 pro tem and that judge hears the same kind of -- we don't

1 have any volunteer pro-tems or anything along those lines,
2 judges that come in.

3 We'll see how other judges here feel, and if
4 you need to get a judge from a different court.

5 All right. So Mr. Stough, you need to
6 maintain contact with your attorney, and the matter is
7 referred to the court administrator for reassignment to a
8 different division, and I'll make sure that the court
9 administrator knows it was because of the victim in the
10 case.

11 MR. GUTIERREZ: Thank you.

12 THE COURT: Anything else for today,
13 counsel? * * *

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